

HOUSE BILL NO. 486

INTRODUCED BY J. JAYNE

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FOSTER CARE SERVICES ELIGIBLE FOR PAYMENTS, INCLUDING CLOTHING, DIAPERS, TRANSPORTATION, AND PLACEMENT ALLOWANCES; REMOVING THE REQUIREMENT FOR PAYMENTS TO BE LIMITED BY APPROPRIATIONS; CLARIFYING THAT THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MUST ADOPT RULES FOR QUALIFICATIONS OF RESPITE CARE PROVIDERS FOR FOSTER CHILDREN; PROVIDING AT LEAST 16 HOURS A MONTH OF RESPITE CARE UPON REQUEST TO ALL CHILDREN IN YOUTH FOSTER HOMES; ALLOWING RESPITE CARE ALLOWANCES FOR FOSTER CHILDREN RECEIVING SUPPLEMENTAL SERVICES; REQUIRING THE DEPARTMENT TO KEEP A LIST OF RESPITE CARE PROVIDERS AS A RESOURCE FOR FOSTER PARENTS; REQUIRING THE DEPARTMENT TO PROVIDE A YOUTH CARE FACILITY INFORMATION ABOUT A FOSTER CHILD'S HIV OR AIDS STATUS IF IT HAS THE INFORMATION AND IF THE FACILITY CERTIFIES THAT IT IS SUBJECT TO THE PROVISIONS FOR CONFIDENTIAL HEALTH CARE INFORMATION; PROVIDING AN APPROPRIATION; AND AMENDING SECTIONS 41-3-1103, 41-3-1122, 41-3-1151, AND 50-16-603, MCA; AND PROVIDING AN EFFECTIVE DATE."

18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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20 **Section 1.** Section 41-3-1103, MCA, is amended to read:

21 **"41-3-1103. Powers and duties of department.** (1) The department shall:

22 (a) administer all state and federal funds allocated to the department for youth foster homes,
23 youth group homes, child-care agencies, and youth assessment centers for youth in need of care, as
24 defined in 41-3-102;

25 (b) exercise licensing authority over all youth foster homes, youth group homes, child-care
26 agencies, and youth assessment centers;

27 (c) collect and disseminate information relating to youth in need of care;

28 (d) provide for training of program personnel delivering services;

29 (e) in cooperation with youth care facility providers, develop and implement standards for youth
30 care facilities;

(f) maintain adequate data on placements it funds in order to keep the legislature properly informed of the following:

(i) the number of youth in need of care in out-of-home care facilities;

(ii) the cost per facility for services rendered;

(iii) the type and level of care of services provided by each facility;

(iv) a profile of out-of-home care placements by level of care; and

(v) a profile of public institutional placements;

(g) administer all funds allocated to the department for residential alcohol and drug abuse treatment for indigent youths in need of care, indigent youths in need of intervention, and indigent delinquent youths who require treatment; ~~and~~

(h) provide reimbursement for mental health outpatient counseling services for persons who experience the death of a foster child while providing substitute care to the foster child in a youth care facility; and

(i) adopt rules for qualifications and requirements for respite care providers.

(2) The department may:

(a) enter into contracts with nonprofit corporations or associations or private organizations to provide substitute care for youth in need of care in youth care facilities;

(b) accept gifts, grants, and donations of money and property from public and private sources to initiate and maintain community-based services to youth;

(c) adopt rules to carry out the administration and purposes of this part.

(3) The department shall pay for room, board, clothing, personal needs, transportation, and treatment in youth foster care homes and youth group homes for youths committed to the department who need to be placed in the facilities from the date of placement.

(a) Payments for the clothing of a child placed in a youth foster home must be provided to the extent the child needs a basic wardrobe, a seasonal wardrobe, and a school wardrobe or has a special clothing need, including age-appropriate and sex-appropriate hygiene needs. ~~Payments under this subsection may not exceed appropriations for the purposes of this subsection. Payments must be a~~ minimum of \$750 a year for a foster child who is 13 years of age to under 18 years of age and a minimum of \$650 a year for a foster child 12 years of age and under.

(b) A diaper allowance of a minimum of \$45 a month must be paid for children 4 years of age and

1 under in a youth foster home.

2 (c) A placement allowance of a minimum of \$150 must be provided at the time of placement of
3 a foster child for clothing, diapers, personal needs, transportation, and other immediate needs.

4 (d) Actual transportation costs of the foster child, at the state rate not to exceed \$100 a month,
5 must be provided without mileage limitations for approved school, church, medical visits, and family
6 visitation.

7 (4) The department may provide a subsidy for a guardianship of a child who is in the department's
8 legal custody if the guardianship has been approved by the department pursuant to 41-3-421 and in
9 accordance with eligibility criteria established by department rule.

10 (5) The department shall provide a youth care facility with information that the department has
11 regarding a foster child's HIV or AIDS status, subject to the youth care facility certifying that it will not
12 use or disclose the health care information for any other purposes and that the youth care facility will take
13 appropriate steps to protect the health care information, subject to 50-16-604."

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15 **Section 2.** Section 41-3-1122, MCA, is amended to read:

16 **"41-3-1122. Payment for support of youth in need of care, youth in need of intervention, or**
17 **delinquent youth -- reimbursement by county.** (1) Whenever a youth who is a youth in need of care, a
18 youth in need of intervention, or a delinquent youth is placed by the department of public health and
19 human services or the department of corrections in a youth care facility, the department making the
20 placement shall pay, ~~within the limits of the appropriation for that purpose,~~ a foster care payment to the
21 youth care facility at a rate established by the department of public health and human services for the
22 youth's board, clothing, personal needs, treatment, and room.

23 (2) On or before the 20th of each month, the department of public health and human services or
24 the department of corrections shall present a claim to the county of residence of the youth for no more
25 than one-half of the nonfederal share of the payments made during the month. The county shall make
26 reimbursement to the department within 20 days after the claim is presented.

27 (3) Except as provided in subsection (4), when a county's level of expenditure for any year
28 reaches the level of reimbursement for foster care in fiscal year 1987, the county has no further obligation
29 for foster care expenditures.

30 (4) If a county's level of expenditure for foster care in fiscal year 1987 was \$10,000 or less, the

1 county's level of expenditure for purposes of determining the county's reimbursement specified in
2 subsection (3) is the level of expenditures for fiscal year 1987 or the average of expenditures for fiscal
3 years 1984 through 1987, whichever is less.

4 (5) A county that was state-assumed prior to 1987 but that at a later date reassumes
5 responsibility pursuant to 53-2-811 is responsible for reimbursement of foster care expenditures up to the
6 county's calculated level of expenditures for fiscal year 1987 as if the county had not been state-assumed.

7 (6) The department shall conduct or arrange for the review required under 41-3-1115; or, when
8 applicable, 41-3-1010 of a youth placed in a youth care facility if the youth is placed by the department."

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10 **Section 3.** Section 41-3-1151, MCA, is amended to read:

11 **"41-3-1151. Respite care.** (1) The department shall provide respite care, ~~to the extent funds are~~
12 ~~available,~~ for foster children who are:

13 (a) in a youth foster home;

14 ~~(a)(b)~~ persons with developmental disabilities and either on a respite care waiting list or not eligible
15 for respite care from another program;

16 ~~(b)(c)~~ medically demanding because they are nonambulatory or have other special needs requiring
17 intensive supervision or care; or

18 ~~(c)(d)~~ suffering from severe emotional problems that are manifested in serious behavior problems.

19 (2) Respite care ~~may~~ must be provided by the department for up to 16 hours a month, upon
20 request, and may be provided on an hourly, daily, or weekly basis at a rate of payment to be determined
21 by the department.

22 (3) Respite care may not be provided in an institutionalized setting except in cases involving foster
23 children who require intensive supervision or care.

24 (4) Respite care must be provided to a foster child receiving a supplemental services allowance
25 if the child meets the qualifications of subsection (1).

26 (5) The department shall maintain a roster, at the regional level, of respite care providers whose
27 names were submitted on reimbursement request forms and for whom requests for reimbursement have
28 not been denied as a resource for individuals who provide substitute care."

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30 **Section 4.** Section 50-16-603, MCA, is amended to read:

1 **"50-16-603. Confidentiality of health care information.** Health care information in the possession

2 of the department, a local board, a local health officer, or their authorized representatives may not be
3 released except:

4 (1) for statistical purposes, if no identification of individuals can be made from the information
5 released;

6 (2) when the health care information pertains to a person who has given written consent to the
7 release and has specified the type of information to be released and the person or entity to whom it may
8 be released;

9 (3) to medical personnel in a medical emergency as necessary to protect the health, life, or
10 well-being of the named person;

11 (4) as allowed by Title 50, chapters 17 and 18;

12 (5) to another state or local public health agency, including those in other states, whenever
13 necessary to continue health services to the named person or to undertake public health efforts to prevent
14 or interrupt the transmission of a communicable disease;

15 (6) in the case of a minor, as required by 41-3-201, ~~or~~ pursuant to an investigation under
16 41-3-202, or pursuant to 41-3-1103. If the health care information is required in a subsequent court
17 proceeding involving child abuse, the information may be disclosed only in camera and documents
18 containing the information must be sealed by the court upon conclusion of the proceedings.

19 (7) to medical personnel, the department, a local health officer or board, or a district court when
20 necessary to implement or enforce state statutes or state or local health rules concerning the prevention
21 or control of diseases designated as reportable pursuant to 50-1-202, if the release does not conflict with
22 any other provision contained in this part."

23
24 NEW SECTION. **Section 5. Appropriation.** There is appropriated from the general fund to the
25 department of public health and human services to fund increased respite care and increased services,
26 including clothing, diapers, transportation, and placement allowances, to foster children, as provided in
27 [this act], for fiscal years 2002 and 2003 the following amounts:

28 FY 2002	\$1,183,050
29 FY 2003	1,212,738

1 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2001.

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